

In the United States Court of Federal Claims

No. 17-877C
(Filed: October 22, 2019)

COMMON GROUND HEALTHCARE *
COOPERATIVE, *
*
Plaintiff, *
*
v. *
*
THE UNITED STATES, *
*
Defendant. *

ORDER

In a February 15, 2019 Opinion and Order, the court concluded that the government's failure to make cost-sharing reduction payments to plaintiff and the other cost-sharing reduction class ("CSR class") members violates 42 U.S.C. § 18071. It thereafter directed the parties to file a joint status report indicating the amount due to each CSR class member for its unpaid cost-sharing reduction reimbursements for 2017 and 2018, and indicated that upon being informed of the amounts, it would direct the entry of judgment on the CSR class's cost-sharing reduction claim pursuant to Rule 54(b) of the Rules of the United States Court of Federal Claims ("RCFC").¹

The parties filed the requested joint status report on October 18, 2019. In an exhibit attached to the joint status report, the parties set forth the amounts due to each CSR class member for 2017 and 2018, the total amount due to each CSR class member, the amounts due to the CSR class for 2017 and 2018, and the total amount due to the CSR class for 2017 and 2018 combined. They request that the court (1) enter an order identifying the amounts due to each CSR class member for 2017 and 2018, and (2) direct the entry of partial final judgment for the class in the amount of \$1,587,108,397.81. However, "[t]he United States makes this request without waiver of its right to appeal this judgment to the United States Court of Appeals for the Federal Circuit." In addition, plaintiff requests an award of costs pursuant to RCFC 54(d)(1).

¹ A judgment disposing of the entire case is not appropriate at this time because plaintiff also asserts a claim on behalf of a class related to the government's failure to make risk corridors payments, and proceedings on that claim are currently stayed pending final, nonappealable judgments in Moda Health Plan, Inc. v. United States, No. 16-649C, and Land of Lincoln Mutual Health Insurance Co. v. United States, No. 16-744C.

The court finds that there is no just reason for delaying the entry of judgment on the CSR class's cost-sharing reduction claim. Thus, in accordance with its February 15, 2019 Opinion and Order, the court directs the clerk to enter judgment for the CSR class pursuant to RCFC 54(b) in the amount of \$1,587,108,397.81, with the CSR class members entitled to the amounts set forth in the attached table. Plaintiff is entitled to costs pursuant to RCFC 54(d)(1).² The parties' stipulation to the amount of damages does not preclude their right to appeal this judgment.

IT IS SO ORDERED.

s/ Margaret M. Sweeney
MARGARET M. SWEENEY
Chief Judge

² Pursuant to RCFC 54(d)(1), a Bill of Costs must be filed with the clerk "within 30 days after the date of final judgment, as defined in 28 U.S.C. § 2412(d)(2)(G)[.]"

Issuer ID	Name	2017 Damages	2018 Damages	2017 + 2018 Damages
CLASS ACTION ISSUERS				
77606	AMERIHEALTH HMO, INC.	N/A	\$ 3,047,605.42	\$ 3,047,605.42
91762	AMERIHEALTH INS COMPANY OF NEW JERSEY	N/A	\$ 32,618,681.42	\$ 32,618,681.42
86584	ASPIRUS ARISE HEALTH PLAN OF WISCONSIN, INC.	\$ 2,019,112.83	\$ 5,721,342.44	\$ 7,740,455.27
32536	ATRIO HEALTH PLANS, INC.	\$ 744,629.96	N/A	\$ 744,629.96
60536	AVERA HEALTH PLANS, INC.	N/A	\$ 9,586,878.41	\$ 9,586,878.41
15287	BLUE CROSS & BLUE SHIELD OF RHODE ISLAND	\$ 2,384,359.45	\$ 4,095,632.21	\$ 6,479,991.66
46944	BLUE CROSS AND BLUE SHIELD OF ALABAMA	N/A	N/A	N/A
18558	BLUE CROSS AND BLUE SHIELD OF KANSAS, INC.	N/A	\$ 32,292,758.48	\$ 32,292,758.48
26065	BLUE CROSS AND BLUE SHIELD OF SOUTH CAROLINA	\$ 7,429,833.05	\$ 124,625,479.03	\$ 132,055,312.08
27811	BLUECROSS BLUESHIELD KANSAS SOLUTIONS, INC.	\$ 4,440,640.38	N/A	\$ 4,440,640.38
82569	BOSTON MEDICAL CENTER HEALTH PLAN, INC. D/B/A BOSTON MEDICAL CENTER HEALTHNET PLAN	\$ 15,402,807.36	\$ 54,854,071.27	\$ 70,256,878.63
70285	CALIFORNIA PHYSICIANS' SERVICE D/B/A BLUE SHIELD OF CALIFORNIA	\$ 3,555,835.11	\$ 155,399,758.50	\$ 158,955,593.61
45127	CAPITAL ADVANTAGE ASSURANCE COMPANY	\$ 43,610.93	\$ 12,570,291.68	\$ 12,613,902.61
28137	CAREFIRST BLUECHOICE, INC.	\$ 418,513.76	\$ 22,856,588.53	\$ 23,275,102.29
86052	CAREFIRST BLUECHOICE, INC.	N/A	\$ 32,233.00	\$ 32,233.00
10207	CAREFIRST BLUECHOICE, INC.	\$ 335,195.47	\$ 1,324,970.10	\$ 1,660,165.57
45532	CAREFIRST OF MARYLAND, INC.	\$ 528,650.22	\$ 1,814,032.42	\$ 2,342,682.64
77552	CARESOURCE	\$ 3,622,711.49	\$ 26,162,878.94	\$ 29,785,590.43
54192	CARESOURCE INDIANA, INC.	\$ 1,732,023.65	\$ 24,030,047.16	\$ 25,762,070.81
45636	CARESOURCE KENTUCKY CO.	\$ 4,303,746.23	\$ 17,716,337.86	\$ 22,020,084.09
50328	CARESOURCE WEST VIRGINIA CO.	\$ 89,800.35	\$ 4,816,047.85	\$ 4,905,848.20

Issuer ID	Name	2017 Damages	2018 Damages	2017 + 2018 Damages
94788	CDPHP	\$ 5,018.48	\$ 39,551.94	\$ 44,570.42
14630	CHILDREN'S COMMUNITY HEALTH PLAN	\$ 426,521.77	\$ 20,086,027.47	\$ 20,512,549.24
47579	CHINESE COMMUNITY HEALTH PLAN	N/A	N/A	N/A
72034	CHRISTUS HEALTH PLAN	N/A	\$ 680,352.03	\$ 680,352.03
66252	CHRISTUS HEALTH PLAN	\$ 121,354.15	\$ 12,174,529.60	\$ 12,295,883.75
87416	COMMON GROUND HEALTHCARE COOPERATIVE	\$ 10,542,927.12	\$ 46,286,304.63	\$ 56,829,231.75
18581	COMMUNITY HEALTH PLAN OF WASHINGTON	\$ 27,437.69	N/A	\$ 27,437.69
38345	DEAN HEALTH PLAN	\$ 4,955,476.60	\$ 11,102,317.80	\$ 16,057,794.40
66699	DENVER HEALTH MEDICAL PLAN, INC	\$ 6,063.52	\$ 413,674.24	\$ 419,737.76
78124	EXCELLUS HEALTH PLAN, INC.	\$ 15,291.35	\$ 238,299.05	\$ 253,590.40
88806	FALLON COMMUNITY HEALTH PLAN, INC.	\$ 26,283.75	\$ 3,496,255.83	\$ 3,522,539.58
63312	FRIDAY HEALTH PLANS	\$ 200,244.19	\$ 1,785,778.01	\$ 1,986,022.20
22444	GEISINGER HEALTH PLAN	N/A	\$ 18,448,473.36	\$ 18,448,473.36
34102	GROUP HEALTH PLAN, INC.	\$ 78,756.48	\$ 754,533.00	\$ 833,289.48
40308	GROUP HOSPITALIZATION AND MEDICAL SERVICES INC.	\$ 669,613.84	\$ 698,846.25	\$ 1,368,460.09
78079	GROUP HOSPITALIZATION AND MEDICAL SERVICES, INC.	\$ 90.00	\$ 34,777.41	\$ 34,867.41
94084	GROUP HOSPITALIZATION AND MEDICAL SERVICES, INC.	\$ 389,536.09	\$ 395,647.98	\$ 785,184.07
91058	GUNDERSEN HEALTH PLAN, INC.	\$ 160,545.91	N/A	\$ 160,545.91
18350	HAWAII MEDICAL SERVICE ASSOCIATION	N/A	\$ 4,024,958.29	\$ 4,024,958.29
36194	HEALTH FIRST COMMERCIAL PLANS, INC.	\$ 2,817,386.96	N/A	\$ 2,817,386.96
95865	HEALTH PLAN OF NEVADA, INC.	N/A	\$ 10,378,194.40	\$ 10,378,194.40
20173	HEALTHPARTNERS INSURANCE COMPANY	N/A	\$ 1,037,501.77	\$ 1,037,501.77
19636	HMO LOUISIANA, INC.	\$ 33,165.59	\$ 43,202,480.58	\$ 43,235,646.17
31609	INDEPENDENCE BLUE CROSS (QCC INS. CO.)	\$ 2,267,519.74	\$ 10,062,712.51	\$ 12,330,232.25
21032	KAISER FOUNDATION HEALTH PLAN OF COLO.	N/A	\$ 13,489,220.40	\$ 13,489,220.40
89942	KAISER FOUNDATION HEALTH PLAN OF GEORGIA	\$ 156,398.60	\$ 51,089,026.15	\$ 51,245,424.75

Issuer ID	Name	2017 Damages	2018 Damages	2017 + 2018 Damages
90296	KAISER FOUNDATION HEALTH PLAN OF THE MID-ATLANTIC STATES, INC.	\$ 63,371.39	\$ 26,513,262.17	\$ 26,576,633.56
95185	KAISER FOUNDATION HEALTH PLAN OF THE MID-ATLANTIC STATES, INC.	\$ 61,701.69	\$ 38,056,818.93	\$ 38,118,520.62
94506	KAISER FOUNDATION HEALTH PLAN OF THE MID-ATLANTIC STATES, INC.	\$ 1,224.78	\$ 55,430.36	\$ 56,655.14
80473	KAISER FOUNDATION HEALTH PLAN OF WASHINGTON	\$ 1,110,167.97	\$ 10,307,941.21	\$ 11,418,109.18
60612	KAISER FOUNDATION HEALTH PLAN, INC.	\$ 24,215.34	\$ 3,511,518.83	\$ 3,535,734.17
40513	KAISER FOUNDATION HEALTH PLAN, INC.	\$ 261,138.16	\$ 64,873,628.99	\$ 65,134,767.15
71287	KAISER FOUNDATION HEALTHPLAN OF THE NW	\$ 14,310.27	\$ 7,964,082.28	\$ 7,978,392.55
23371	KAISER FOUNDATION HEALTHPLAN OF THE NW	\$ 404,267.71	\$ 2,391,083.25	\$ 2,795,350.96
33871	KEYSTONE HEALTH PLAN EAST, INC	N/A	\$ 34,872,091.13	\$ 34,872,091.13
38498	LIFEWISE HEALTH PLAN OF WA	\$ 976,334.93	\$ 4,986,181.98	\$ 5,962,516.91
97176	LOUISIANA HEALTH SERVICE & INDEMNITY COMPANY, D/B/A BLUE CROSS AND BLUE SHIELD OF LOUISIANA	\$ 40,501.02	\$ 1,949,070.66	\$ 1,989,571.68
58594	MERIDIAN HEALTH PLAN OF MICHIGAN, INC.	\$ 262,197.21	\$ 1,349,340.00	\$ 1,611,537.21
11177	METROPLUS HEALTH PLAN	\$ 25,454.56	\$ 305,038.90	\$ 330,493.46
73331	MINUTEMAN HEALTH, INC	\$ 287,589.87	N/A	\$ 287,589.87
61163	MINUTEMAN HEALTH, INC	\$ 1,067,484.30	N/A	\$ 1,067,484.30
39424	MODA HEALTH PLAN, INC.	N/A	\$ 11,020,016.97	\$ 11,020,016.97
56184	MVP HEALTH PLAN, INC.	\$ 463,460.26	\$ 659,118.21	\$ 1,122,578.47
77566	MVP HEALTH PLAN, INC.	\$ 406,386.81	\$ 4,770,789.34	\$ 5,177,176.15
81413	NETWORK HEALTH PLAN	\$ 457,083.57	\$ 1,863,260.62	\$ 2,320,344.19
93091	NEW MEXICO HEALTH CONNECTIONS	\$ 19,320.61	\$ 7,783,770.57	\$ 7,803,091.18
20507	OPTIMA HEALTH PLAN	\$ 4,455,124.77	\$ 45,519,921.54	\$ 49,975,046.31
23818	OSCAR GARDEN STATE INSURANCE CORPORATION	N/A	\$ 1,670,792.24	\$ 1,670,792.24

Issuer ID	Name	2017 Damages	2018 Damages	2017 + 2018 Damages
10544	OSCAR HEALTH PLAN OF CALIFORNIA	N/A	\$ 2,868,234.47	\$ 2,868,234.47
23552	OSCAR INSURANCE COMPANY	N/A	\$ 7,251,042.10	\$ 7,251,042.10
20069	OSCAR INSURANCE COMPANY	\$ 1,332,495.62	\$ 54,108,574.53	\$ 55,441,070.15
74289	OSCAR INSURANCE CORPORATION	N/A	\$ 218,943.45	\$ 218,943.45
45845	OSCAR INSURANCE CORPORATION OF OHIO	N/A	\$ 3,073,467.50	\$ 3,073,467.50
60597	PACIFICSOURCE HEALTH PLANS	\$ 68,888.81	N/A	\$ 68,888.81
10091	PACIFICSOURCE HEALTH PLANS	N/A	\$ 2,855,185.77	\$ 2,855,185.77
23603	PACIFICSOURCE HEALTH PLANS	N/A	\$ 3,049,818.66	\$ 3,049,818.66
74313	PARAMOUNT INSURANCE COMPANY	\$ 536,850.12	N/A	\$ 536,850.12
60829	PHYSICIANS HEALTH PLAN	\$ 160,115.21	\$ 2,115,273.52	\$ 2,275,388.73
49831	PREMERA BLUE CROSS	\$ 1,139,974.36	\$ 6,956,926.22	\$ 8,096,900.58
38344	PREMERA BLUE CROSS BLUE SHIELD OF ALASKA	N/A	\$ 11,054,226.50	\$ 11,054,226.50
26734	PREMIER HEALTH PLAN, INC.	\$ 485,870.13	N/A	\$ 485,870.13
29698	PRIORITY HEALTH	\$ 9,497,198.62	\$ 14,592,689.48	\$ 24,089,888.10
37392	PROMINENCE HEALTHFIRST OF TEXAS, INC.	\$ 61,820.56	N/A	\$ 61,820.56
56707	PROVIDENCE HEALTH PLAN	N/A	\$ 18,003,012.55	\$ 18,003,012.55
38166	SECURITY HEALTH PLAN OF WISCONSIN, INC.	\$ 313,857.88	\$ 19,853,798.12	\$ 20,167,656.00
26002	SELECTHEALTH	\$ 4,414,757.46	\$ 11,834,181.55	\$ 16,248,939.01
68781	SELECTHEALTH	\$ 16,341,918.82	\$ 90,677,777.04	\$ 107,019,695.86
26539	SHA, LLC DBA FIRSTCARE HEALTH PLANS	N/A	\$ 8,505,436.22	\$ 8,505,436.22
92499	SHARP HEALTH PLAN	\$ 25,312.75	\$ 4,197,709.69	\$ 4,223,022.44
52664	SUMMA INSURANCE COMPANY, INC.	\$ 21,128.56	\$ 1,676,637.09	\$ 1,697,765.65
59763	TUFTS HEALTH PUBLIC PLANS INC.	\$ 8,370,566.22	\$ 45,034,657.98	\$ 53,405,224.20
85736	UCARE MINNESOTA	\$ 95,369.42	\$ 1,088,402.29	\$ 1,183,771.71
54235	UNITEDHEALTHCARE OF NEW YORK, INC.	\$ 18,557.38	\$ 88,123.67	\$ 106,681.05
38599	UNITEDHEALTHCARE OF THE MID-ATLANTIC INC	\$ 280,357.81	N/A	\$ 280,357.81
37833	UNITY HEALTH PLANS INSURANCE CORPORATION	\$ 2,589,106.18	\$ 12,506,806.19	\$ 15,095,912.37
42261	UNIVERSITY OF UTAH HEALTH INSURANCE PLANS	\$ 945,062.42	\$ 15,025,864.94	\$ 15,970,927.36

Issuer ID	Name	2017 Damages	2018 Damages	2017 + 2018 Damages
16322	UPMC HEALTH OPTIONS, INC.	\$ 2,329,917.99	\$ 38,669,887.09	\$ 40,999,805.08
75293	USABLE MUTUAL INSURANCE COMPANY	\$ 1,790,505.66	\$ 21,905,927.13	\$ 23,696,432.79
67243	VANTAGE HEALTH PLAN, INC.	N/A	\$ 2,019,226.88	\$ 2,019,226.88
93689	WESTERN HEALTH ADVANTAGE	N/A	\$ 2,796,242.31	\$ 2,796,242.31
		\$ 131,172,069.27	\$ 1,455,936,328.54	\$ 1,587,108,397.81
		2017 Total	2018 Total	Combined 2017-2018 Total